

Regulatory Framework Working Group

Charge from Groundwater Management Area Advisory Committee

Working Group Members

Tom Eaton – Chair (Environmental Protection Agency), Andres Cervantes (Department of Health), Charlie McKinney (Department of Ecology), Chelsea Durfey (Turner and Co.), Dan Degroot (Yakima Dairy Federation), Jason Sheehan (Yakima Dairy Federation), Jean Mendoza (Friends of Toppenish Creek), Laurie Crowe (South Yakima Conservation District) Nick Peak (Environmental Protection Agency), Vern Redifer (Yakima County Public Services)

Meetings/Calls Dates

Where: KDNA Granger – 121 Sunnyside Avenue, Granger, Washington
When: 3:00 PM – 5:00 PM Thursday, April 17, 2014
Call: (509) 574-2353 - PIN# 2353

Participants

Present: Tom Eaton (Chair), Andy Cervantes, Charlie McKinney, Dan Degroot, Jason Sheehan, Jean Mendoza, Laurie Crowe, Vern Redifer,

Absent: Chelsea Durfey, Nick Peak

Other Attendees: Larry Fendell, Jim Dyjak, Steven Rowe, Steve George, Phyllis Barney, Don Gatchalian (Yakima County support staff)

Key Discussion Points

Welcome & Meeting Overview

Tom Eaton welcomed the working group and outlined the Meeting Agenda. He introduced Phyllis Barney from the Washington Attorney General's Office.

Presentation by Phyllis Barney, Assistant Attorney General on Water Quality Law and Regulation

Phyllis provided an overview of water quality law and regulation (copy of presentation is attached):

- **The 1972 Federal Clean Water Act** and its intent. The Act makes it unlawful to discharge pollutant from a point source to surface water of the United States, unless you have a permit to do so.

- CWA allows authority to enforce and manage NPDES program to be delegated to a state which is the case for the State of Washington
- RCW 90.48.260 authorizes Ecology to establish and administer NPDES permit program
- CWA also delegated authority for non-point source pollution control to Ecology

- **1945 RCW 90.48 - Water Pollution Control Act**
 - Grant Ecology broad authority to control and prevent pollution of the waters of the state
 - “Water of the state” in Washington state has broad meaning, includes all surface waters, underground waters, waters in manmade ditches (including irrigation ditches), wetlands, and isolated bodies of water
 - Ecology is authorized to administer a state permit program to protect both surface water and groundwater.

- **EPA CAFO Rule**
 - First – to be a CAFO you have to be an AFO
 - To be an AFO, you have to have:
 - Animals must be confined for 45 days or more, and
 - No crops are grown in the confinement area
 - Categorized by size
 - Difference requirements for size and species of animals
 - NPDES permit is required only if CAFO discharges to surface water
 - Dairies can request to be covered by the NPDES permit

- **Washington Regulatory Scheme**
 - Ecology is delegated NPDES agency and issues CAFO permits
 - WSDA is regulatory agency for dairies

- **RCW 90.64 Dairy Nutrient Management Act**
 - Establishes an inspection and technical assistance program for dairies
 - Requires dairies to have a nutrient management plan
 - Makes discharges of pollutants into water of the state a violation, with exceptions
 - WSDA conducts inspection program for dairies, investigate complaints, and issue enforcement orders and penalties for violations of RCW 90.64 and RCW 90.48, operates under an MOA with Ecology
 - Ecology acts if dairy discharges and/or found to be significant contributors of pollution, designates dairy as CAFO, issues CAFO permit, issues and regulates NPDES permits, operates under an MOA with WSDA
 - Washington State Conservation Commission develop elements of the dairy nutrient management plans, assist and provide coordination for conservation districts

- Conservation Districts apply nutrient management plan technologies and BMPs, approves NMP, certify implementation of NMP, and provide technical assistance
- **RCW 90.54.020(3)(b) – Antidegradation Policy**
 - All wastes shall be provide with AKART prior to entry of waste materials into state waters
 - Wastes and other materials shall not be allowed to enter such water which will reduce the existing quality of the waters
 - Applies to surface water (WAC 173-201A-260 through 410)
 - Applies to groundwater (WAC 173-200-300)
- **Groundwater Management Areas (WAC 173-100)**
 - Lead Agency (WAC 173-100-800)
 - GWAC (WAC 173-100-090)

Resources Requested

None at this time

Recommendations for GWAC

None at this time

Deliverables/Products Status

None at this time

Proposed Next Steps

1. Continue review of TM #1 Regulatory Review Database from HDR

Vern has provided the initial categorization of regulations identified in Technical Memorandum No. 1. This was distributed to the committee for information and review. Any comments should be sent to Tom, otherwise this will be used to guide the future work of the workgroup

2. Conduct Regulatory Program Analysis

A draft of the Regulatory Analysis template was sent from Vern but not received by Tom. Vern will send another copy to Tom for review and distribution to the workgroup.

3. Review and update the Task List

The task list with associated milestones was not discussed at this meeting to allow time for the guest speaker.

4. Other Items (Discuss at future meetings)

- Regulatory Framework Webpage Content - It was suggested that a library of regulations, policies and guidelines be placed within the LYV GWMA website. In addition, the website would include the working group's task list, and notes from previous working group meetings.
- WAC 173-100and LYV GWMA- Develop an Information Sheet on LYV GWMA and what is applicable to WAC 173-100